



IN REPLY REFER TO:

United States Department of the Interior

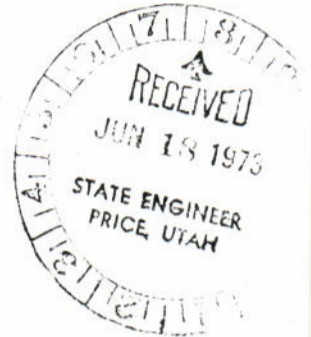
NATIONAL PARK SERVICE

Capitol Reef National Park  
Torrey, Utah 84775

June 15, 1973

L54

RE: Sulphur Creek (Sand Creek)  
Diligence Claim



Mr. Kenward H. McKinney  
Office of the State Engineer  
Post Office Box 718  
Price, Utah 84501

Dear Mr. McKinney:

Enclosed is the "Statement of Water User's Claim to Diligence Rights" which was received in this office today. I have signed for the National Park Service and the forms have been duly notarized. The statutory \$5.00 filing fee is included.

I wish to thank you for your consideration and assistance in this matter. Since your visit to the area, we have been receiving our water without interruption.

Sincerely,

*William F. Wallace*  
William F. Wallace  
Superintendent

Enclosures

Entry 15393

A F F I D A V I TSTATE OF UTAH :  
                  : ss  
COUNTY OF UTAH:OF  
USE OF WATER

Aaron E. Holt being first duly sworn on his oath says: that he is a native born citizen of the United States of America and is sixty-seven (67) years of age; that his residence and post office address is Springville, Utah County, State of Utah.

That from about the month of September 1900 until the month of May 1917 he resided upon and had possession of the property in Wayne County, State of Utah, described as follows to-wit:

The Northeast quarter of the Southwest quarter,  
and the North half of the Southeast quarter of  
Section 15, Twenty-nine South of range 6 East  
of Salt Lake Base and Meridian.

That in the spring of 1902 he diverted the water from Sand Creek, a tributary of the Fremont River, for irrigation of portions of each and both of the tracts of land to the amount of about forty acres. That he irrigated the said lands during each and every irrigation season of the years from 1902 to 1916 inclusive.

That the place of diversion of said water from Sand Creek used by this affiant as aforesaid was located on the said Sand Creek at a point approximately thirty rods/Southwesterly from the Northwest corner of the above described lands.

That during each and all of said years this affiant raised crops of wheat, oats, alfalfa, potatoes, corn, apples, peaches, apricots and cherries on the above described land.

That the amount of water so diverted varied in amount from one-quarter to one-and-one-half second feet during the irrigation season.

Aaron E. Holt

Subscribed and sworn to before me this 14th day of June, 1945.

Alfred L. Booth

SEAL

Notary Public  
Residing at Provo City, Utah

My Commission expires April 20, 1947.

Recorded June 16, 1945

*Paula  
Gerr*

Claim No. 2772 (95-747)  
*Book G, Pg. 393*  
*Wayne Co.*

15394

AFFIDAVIT OF USE OF WATER

STATE OF UTAH :  
: ss  
COUNTY OF WAYNE:

Silas Tanner, being first duly sworn: Deposes and says that he is seventy-two (72) years of age; that he became a resident of Loa, Wayne County, Utah in 1887 and ever since said date has been and now is a resident of said town and county; that during said fifty-eight (58) years, that he has been a resident of said place he has engaged in farming and cattle raising in Wayne County; that he has been Attorney of said county for years 1904 to 1937 outside of two terms, and was State Senator from the 10th district from 1937 to 1940; that in 1897 and for many years thereafter he ran cattle in the Fruita area of said county; that since March 1888 he has been acquainted with the farms in Fruita and the water rights therefor; and that in the year 1940 he was Commissioner of the Fremont River.

That he knows of his own knowledge that in the spring of 1902 Aaron E. Holt diverted water from Sand Creek, a tributary of the Fremont River in Wayne County, at a point approximately thirty rods southwesterly from the Northwest corner of the property in Wayne County, State of Utah, described as follows to-wit:

The Northeast quarter of the Southwest quarter,  
and the North half of the Southeast quarter of  
Section 15, Twenty-nine South of Range 6 East  
of Salt Lake Base and Meridian.

And used the water so diverted to irrigate approximately forty acres being portions of each and both of the above described property. That the amount of water so diverted was all that was required for the growing of farm crops on said premises and is estimated to have been from one-quarter second foot to one-and-one-half second feet during the irrigated season; that said Aaron E. Holt and his successors in interest, R. A. Meeks, Orvel Mott and Dean R. Brimhall diverted said water and used the same upon said premises during the irrigation season of each and every year from 1902 to 1940 and that he is informed and believes that they have used said water on said premises from 1940 to and including the end of the 1944 irrigation season.

Silas Tanner

Subscribed and sworn to before me this 15th day of June, 1945.

Jacob Coleman residing at Provo, Utah.

Notary Public

My Commission expires August 25, 1948.

(SEAL)

Recorded June 16, 1945

Claim No. 2112 (35-747)  
Book G, Pg. 393  
Wayne Co.

15395

DEED

Clarence Mulford and Marie Mulford, his wife, William Chesnut and Dicey Chesnut, his wife; Merin Smith and Cora Smith, his wife; M. V. Oyler and Elvira Oyler, his wife; and Dewey Gifford and Nellie Gifford, his wife, all of Fruita, Utah, Grantors, hereby convey and grant to Dean R. Brimhall, Grantee, for the sum of One Dollar and other valuable considerations

Forty four hundredths (.44) of a second foot of water in the Fremont River, Decreed to the above grantors according to their respective individual rights.

Witness the hands of said Grantors this 16th day of June 1945.

Clarence Mulford

Marie Mulford

his mark x

William Chesnut

Dicey Chesnut

Merin Smith

Cora Smith

M. V. Oyler

Elvira Oyler

Dewey Gifford

Nellie Gifford

STATE OF UTAH :  
                              : ss  
COUNTY OF WAYNE:

On the 16th day of June, 1945, personally appeared before me Clarence Mulford, Marie Mulford, William Chesnut, Merin Smith, Cora Smith, M.V. Oyler, Elvira Oyler, Dewey Gifford and Nellie Gifford, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Jacob Coleman

Notary Public

Residing at Provo, Utah

My Commission Expires August 25, 1948.

(SEAL)

Recorded June 18, 1945

*Park Service*

15395

**DEED**

Clarence Mulford and Marie Mulford, his wife, William Chesnut and Dicey Chesnut, his wife; Merin Smith and Cora Smith, his wife; M. V. Oyler and Elvira Oyler, his wife; and Dewey Gifford and Nellie Gifford, his wife, all of Fruita, Utah, Grantors, hereby convey and grant to Dean R. Brimhall, Grantee, for the sum of One Dollar and other valuable considerations

Forty four hundredths (.44) of a second foot of water in the Fremont River,  
Decreed to the above grantors according to their respective individual rights.

Witness the hands of said Grantors this 16th day of June 1945.

## Clarence Mulford

## Marie Mulford

his mark x

**William Chesnut**

## Dicey Chesnut

Merin Smith

**Cora Smith**

M. V. Oyler

Elvira Oyler

**Dewey Gifford**

**Nellie Gifford**

STATE OF UTAH :  
 : SS  
COUNTY OF WAYNE:

On the 16th day of June, 1945, personally appeared before me Clarence Mulford, Marie Mulford, William Chestut, Merin Smith, Cora Smith, M.V. Oyler, Elvira Oyler, Dewey Gifford and Nellie Gifford, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Jacob Coleman

**Notary Public**

Residing at Provo, Utah

My Commission Expires August 25, 1948.

(SEAL)

Recorded June 18, 1945

Entry 15393

STATE OF UTAH :  
: ss  
COUNTY OF UTAH:

A F F I D A V I T  
OF  
USE OF WATER

Aaron E. Holt being first duly sworn on his oath says: that he is a native born citizen of the United States of America and is sixty-seven (67) years of age; that his residence and post office address is Springville, Utah County, State of Utah.

That from about the month of September 1900 until the month of May 1917 he resided upon and had possession of the property in Wayne County, State of Utah, described as follows to-wit:

The Northeast quarter of the Southwest quarter,  
and the North half of the Southeast quarter of  
Section 15, Twenty-nine South of range 6 East  
of Salt Lake Base and Meridian.

That in the spring of 1902 he diverted the water from Sand Creek, a tributary of the Fremont River, for irrigation of portions of each and both of the tracts of land to the amount of about forty acres. That he irrigated the said lands during each and every irrigation season of the years from 1902 to 1916 inclusive.

That the place of diversion of said water from Sand Creek used by this affiant as aforesaid was located on the said Sand Creek at a point approximately thirty rods/Southwesterly from the Northwest corner of the above described lands.

That during each and all of said years this affiant raised crops of wheat, oats, alfalfa, potatoes, corn, apples, peaches, apricots and cherries on the above described land.

That the amount of water so diverted varied in amount from one-quarter to one-and-one-half second feet during the irrigation season.

Aaron E. Holt

Subscribed and sworn to before me this 14th day of June, 1945.

Alfred L. Booth

Notary Public  
Residing at Provo City, Utah

SEAL

My Commission expires April 20, 1947.

Recorded June 16, 1945

STATE OF UTAH :  
                  : ss  
COUNTY OF WAYNE:

Silas Tanner, being first duly sworn: Deposes and says that he is seventy-two (72) years of age; that he became a resident of Loa, Wayne County, Utah in 1887 and ever since said date has been and now is a resident of said town and county; that during said fifty-eight (58) years, that he has been a resident of said place he has engaged in farming and cattle raising in Wayne County; that he has been Attorney of said county for years 1904 to 1937 outside of two terms, and was State Senator from the 10th district from 1937 to 1940; that in 1897 and for many years thereafter he ran cattle in the Fruita area of said county; that since March 1888 he has been acquainted with the farms in Fruita and the water rights therefor; and that in the year 1940 he was Commissioner of the Fremont River.

That he knows of his own knowledge that in the spring of 1902 Aaron E. Holt diverted water from Sand Creek, a tributary of the Fremont River in Wayne County, at a point approximately thirty rods southwesterly from the Northwest corner of the property in Wayne County, State of Utah, described as follows to-wit:

The Northeast quarter of the Southwest quarter,  
and the North half of the Southeast quarter of  
Section 15, Twenty-nine South of Range 6 East  
of Salt Lake Base and Meridian.

And used the water so diverted to irrigate approximately forty acres being portions of each and both of the above described property. That the amount of water so diverted was all that was required for the growing of farm crops on said premises and is estimated to have been from one-quarter second foot to one-and-one-half second feet during the irrigated season; that said Aaron E. Holt and his successors in interest, R. A. Meeks, Orvel Mott and Dean R. Brimhall diverted said water and used the same upon said premises during the irrigation season of each and every year from 1902 to 1940 and that he is informed and believes that they have used said water on said premises from 1940 to and including the end of the 1944 irrigation season.

Silas Tanner

Subscribed and sworn to before me this 15th day of June, 1945.

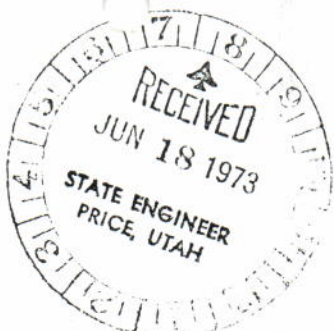
Jacob Coleman residing at Provo, Utah.

Notary Public

My Commission expires August 25, 1948.

(SEAL)

Recorded June 16, 1945



SHEET 1 OF 2  
 Claim No. 2772 (95-747)  
 Filed June 13, 1973  
 Rec. by [Signature]  
 Fee Rec. [Signature]  
 Platted

## STATEMENT OF WATER USER'S CLAIM

## TO DILIGENCE RIGHTS

## STATE OF UTAH

Claim to surface water by right of use prior to March 12, 1903, is hereby made and filed with the State Engineer, and submitted in accordance with Utah Water Laws.

- Uses Claimed CAPITOL REEF NATIONAL PARK  
 Irrigation ☒ Domestic ☐ Stockwatering ☐ Municipal ☐ Power ☐ Mining ☐ Other Uses ☐
- Name of Claimant National Park Service Interest Claimed 100 %
- Post Office Address 1709 Jackson Street, Omaha, Nebraska
- The quantity of water claimed is 1.0 c.f.s. acre-feet
- The water is used for Irrigation from March 15 to November 15  
(Major Purpose) (Month) (Day) (Month) (Day)  
 other use period \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
(Minor Purpose) (Month) (Day) (Month) (Day)
- Name of spring, spring area, or stream, from which water is diverted: Sulphur Creek  
(Sand Creek)
- The point of diversion from the spring, spring area, or stream is in Wayne County,  
 Situated at a point S. 350 ft. & E. 950 ft. from W $\frac{1}{2}$  Cor. Sec. 15, T29S, R6E, SLB&M.  
Torrey Quad.
- The water is diverted by means of: Earth and rock dam and earth ditches to places of use.
- Priority Claimed  
 Date when work on diverting system was first begun Spring 1902  
 Date when water was first used Spring 1902
- If water is stored, give name of reservoir \_\_\_\_\_  
 Maximum capacity of reservoir in acre-feet \_\_\_\_\_ Height of dam \_\_\_\_\_  
 Area inundated in acres \_\_\_\_\_ Legal subdivisions of area inundated \_\_\_\_\_  
 Date commenced \_\_\_\_\_ Date completed \_\_\_\_\_ Water first used \_\_\_\_\_  
 Period of Storage from \_\_\_\_\_ to \_\_\_\_\_  
 If reservoir is off-channel give capacity of feeder canal \_\_\_\_\_ c.f.s.  
 Is reservoir drained each year? YES ☐ NO ☐ Maximum number of fillings per year \_\_\_\_\_
- Where water is claimed for irrigation purposes give total acres and the legal subdivisions of land by  
 40 acre tract irrigated prior to the year 1903. 40 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$  & N $\frac{1}{2}$ SE $\frac{1}{4}$  Sec. 15, T29S,  
R6E, SLB&M.

12. Where water is claimed for power purposes, describe type of plant, size and rated capacity in h.p.:

13. Where water is claimed for mining purposes, the water is used in \_\_\_\_\_ Mining District  
at the \_\_\_\_\_ Mine, where the following ores are mined: \_\_\_\_\_

14. Where water is claimed for stockwatering purposes, number of stock watered: Horses \_\_\_\_\_  
Cattle \_\_\_\_\_ Sheep \_\_\_\_\_

15. Where water is claimed for Domestic and Municipal purposes:  
If for Domestic use: Number of families, or persons supplied \_\_\_\_\_  
If for Municipal use: Name of city, or town supplied \_\_\_\_\_

16. Where water is claimed for a purpose not above enumerated:  
Nature of use \_\_\_\_\_ Extent of use \_\_\_\_\_

17. Water measurement was made by \_\_\_\_\_  
On \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

REMARKS:

STATE OF UTAH

COUNTY OF \_\_\_\_\_

ss.

(To be used if claimant is an Individual)

\_\_\_\_\_, being first duly sworn, upon oath deposes and says that he is the claimant whose name appears hereon, that he has read the foregoing statement of his claim and knows the contents thereof, that he has signed the same, and that the answers set forth therein are true to his best knowledge and belief.

Signature of Claimant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

STATE OF UTAH

COUNTY OF WAYNE

ss.

Notary Public

(To be used if claimant is a corporation or an estate)

WILLIAM F. WALLACE

\_\_\_\_\_, being first duly sworn, upon oath deposes and says that he is the designated representative of the above claimant, that he makes this certification on behalf of said claimant, that he has read the foregoing statement of claim and knows the contents thereof, and that he has signed the name of said claimant to said statement, that the answers set forth therein are true to his best knowledge and belief.

*William F. Wallace*

Subscribed and sworn to before me this 15th day of June, 19 73

*Arthur B. Taylor*  
Notary Public

My Commission Expires May 2, 1977